IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 100 OF 1989

Mahadeo Hariba Kumbhar ... Appellant.

Versus.

Hariba Subhana Kumbhar,
since deceased by heirs.
1. Vishwanath Hariba Kumbhar,
4. Shivdas Hariba Kumbhar,
3. Kashinath Hariba Kumbhar,
8. Ramling Hariba Kumbhar. ... Respondents

Shri S.M.Railkar i/by Shri G.R.Rege for the Appellant.

None for the Respondents.

CORAM : ABHAY S. OKA, J.

DATED : 13th April, 2005.

ORAL JUDGMENT.

1. This Second Appeal was admitted on 25th July 1989 by passing the following order:

> "Admit. To be heard along with Second Appeal No.59 of 1989."

The said Appeal was admitted as companion appeal bearing Second Appeal No.59 of 1989 was admitted. No substantial question of law has been framed while

admitting the Appeal. The Appeal arises out of the suit for injunction filed by the father of the Appellant (deceased Hariba). The case made out in the suit is based on deed of relinquishment executed on 14th July 1960 by the Appellant. The trial Court has dismissed the suit. However, the Appellate Court has passed a decree in view of the deed of relinquishment executed by the Appellant in respect of the suit property. In a suit filed for partition by the Appellant/Defendant reliance was placed by the brothers of the Appellant on the said deed of relinquishment. The Appellate Court in an Appeal arising out of the said suit for partition has accepted the legality and validity of the said deed of relinquishment and has rejected the claim of the Appellant for partition in respect of the property affected by the said deed of relinquishment. By a separate Judgment delivered today in the companion Second Appeal No.59 of 1989, I have confirmed the findings of the first Appellate Court in the said Second Appeal.

2. The decree of the First Appellate Court in this Appeal is based on the deed of relinquishment as the Appellant had relinquished his right, title and interest in respect of the suit property in favour of the original Plaintiff. The decree for perpetual injunction

has been passed on the basis of the title. In view of the findings recorded in that companion Second Appeal, no interference is called for in the impugned Judgment and Decree and accordingly the Second Appeal is dismissed with no order as to costs.

Judge.